

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JONATHAN CARTER,

Plaintiff,

-against-

THE CITY OF NEW YORK; STEVEN STERNBERG; KARMEN LAM; DESMOND BROWN,

Defendants.

25-CV-3432 (LLS)

ORDER OF DISMISSAL  
WITH LEAVE TO REPLEAD

LOUIS L. STANTON, United States District Judge:

Plaintiff, who currently is incarcerated at Marcy Correctional Facility, brings this action, *pro se*, under 42 U.S.C. § 1983, alleging that Defendants violated his federal constitutional rights.<sup>1</sup> By order dated May 29, 2025, the court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.<sup>2</sup> For the reasons set forth below, the Court dismisses the complaint, but grants Plaintiff 30 days' leave to replead his claims in an amended complaint.

**STANDARD OF REVIEW**

The Prison Litigation Reform Act requires that federal courts screen complaints brought by prisoners who seek relief against a governmental entity or an officer or employee of a governmental entity. *See* 28 U.S.C. § 1915A(a). The Court must dismiss a prisoner's IFP complaint, or any portion of the complaint, that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune

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<sup>1</sup> Plaintiff did not sign the complaint. By order dated May 1, 2025, Chief Judge Laura Taylor Swain directed Plaintiff to cure this deficiency, which he did on May 20, 2025.

<sup>2</sup> Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

from such relief. 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b); *see Abbas v. Dixon*, 480 F.3d 636, 639 (2d Cir. 2007). The Court must also dismiss a complaint if the Court lacks subject matter jurisdiction. *See Fed. R. Civ. P.* 12(h)(3).

While the law mandates dismissal on any of these grounds, the Court is obliged to construe *pro se* pleadings liberally, *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), and interpret them to raise the “strongest [claims] that they suggest,” *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006) (internal quotation marks and citations omitted) (emphasis in original). But the “special solicitude” in *pro se* cases, *id.* at 475 (citation omitted), has its limits – to state a claim, *pro se* pleadings still must comply with Rule 8 of the Federal Rules of Civil Procedure, which requires a complaint to make a short and plain statement showing that the pleader is entitled to relief.

Rule 8 requires a complaint to include enough facts to state a claim for relief “that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim is facially plausible if the plaintiff pleads enough factual detail to allow the Court to draw the inference that the defendant is liable for the alleged misconduct. In reviewing the complaint, the Court must accept all well-pleaded factual allegations as true. *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009). But it does not have to accept as true “[t]hreadbare recitals of the elements of a cause of action,” which are essentially just legal conclusions. *Twombly*, 550 U.S. at 555. After separating legal conclusions from well-pleaded factual allegations, the Court must determine whether those facts make it plausible – not merely possible – that the pleader is entitled to relief. *Id.*

## **BACKGROUND**

Plaintiff brings this action under 42 U.S.C. § 1983 against the City of New York; public defender Steven Sternberg; private attorney Karman Lam; and Detective Desmond Brown of the New York City Police Department’s (“NYPD”) 7th Precinct. Plaintiff alleges that the events

giving rise to his claims occurred in the City of New York and Brooklyn between September 8, 2021, and the present. Plaintiff alleges that he was “denied [his] right to a fair trial.” (ECF 1, at 6.) He asserts that the prosecutor of his criminal case made false statements, fabricated evidence, and “manufactur[ed] false charges,” and that the NYPD “planted evidence in [his] case for the court to convict” him. (*Id.*) Plaintiff was “railroaded into a false conviction where new charges were added” of which he was previously unaware. (*Id.*) In addition, Plaintiff’s public defender “failed to represent [him] effectively.” (*Id.*)

Although Plaintiff does not name any New York State defendants, he asserts that during the recent strike of New York State Department of Corrections and Community Supervision (“DOCCS”) employees, “prison staff [were] refusing to fulfill their duties [and] correctional officers want the atmosphere to become violent to prove a point about the unsafe and dangerous conditions at state correctional facilities.” (*Id.* at 5.)

Plaintiff seeks money damages.

## **DISCUSSION**

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege both that: (1) a right secured by the Constitution or laws of the United States was violated, and (2) the right was violated by a person acting under the color of state law, or a “state actor.” *West v. Atkins*, 487 U.S. 42, 48-49 (1988).

### **A. Private defendants**

A claim for relief under Section 1983 must allege facts showing that each defendant acted under the color of a state “statute, ordinance, regulation, custom or usage.” 42 U.S.C. § 1983. Private parties therefore generally are not liable under the statute. *Sykes v. Bank of Am.*, 723 F.3d 399, 406 (2d Cir. 2013) (citing *Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass’n*, 531 U.S. 288, 295 (2001)); *see also Ciambriello v. Cnty. of Nassau*, 292 F.3d 307, 323 (2d Cir. 2002)

(“[T]he United States Constitution regulates only the Government, not private parties.”). Absent special circumstances suggesting concerted action between an attorney and a state representative, *see Nicholas v. Goord*, 430 F.3d 652, 656 n.7 (2d Cir. 2005) (citing *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 152 (1970)), the representation of a defendant by private counsel in state criminal proceedings does not constitute the degree of state involvement or interference necessary to establish a claim under Section 1983, regardless of whether that attorney is privately retained, court-appointed, or employed as a public defender, *see Bourdon v. Loughren*, 386 F.3d 88, 90 (2d Cir. 2004) (citing *Polk Cnty. v. Dodson*, 454 U.S. 312, 324-25 (1981)); *see also Schnabel v. Abramson*, 232 F.3d 83, 87 (2d Cir. 2000) (holding that legal aid organization ordinarily is not a state actor for purposes of § 1983). As Defendants Sternberg and Lam are private parties who are not alleged to work for any state or other government body, Plaintiff has not stated a claim against these defendants under Section 1983. The Court therefore dismisses Plaintiff’s claims against Sternberg and Lam for failure to state a claim on which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

#### **B. Personal involvement of Detective Brown**

To state a claim under Section 1983, a plaintiff must allege facts showing each defendant’s direct and personal involvement in the alleged constitutional deprivation. *See Spavone v. N.Y. State Dep’t of Corr. Serv.*, 719 F.3d 127, 135 (2d Cir. 2013) (“It is well settled in this Circuit that personal involvement of defendants in the alleged constitutional deprivations is a prerequisite to an award of damages under § 1983.” (internal quotation marks omitted)). A defendant may not be held liable under Section 1983 solely because that defendant employs or supervises a person who violated the plaintiff’s rights. *See Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009) (“Government officials may not be held liable for the unconstitutional conduct of their subordinates under a theory of respondeat superior.”). Rather, “[t]o hold a state official liable

under § 1983, a plaintiff must plead and prove the elements of the underlying constitutional violation directly against the official[.]” *Tangreti v. Bachmann*, 983 F.3d 609, 620 (2d Cir. 2020).

Plaintiff does not allege any facts showing how Defendant Detective Brown was personally involved in the events underlying his claims. Plaintiff’s claims against Brown are therefore dismissed for failure to state a claim on which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

The Court grants Plaintiff leave to replead his claims against Brown in an amended complaint that alleges facts showing how Brown was personally involved in violating Plaintiff’s rights.

### **C. Claims against the City of New York**

When a plaintiff sues a municipality under Section 1983, it is not enough for the plaintiff to allege that one of the municipality’s employees or agents engaged in some wrongdoing. The plaintiff must show that the municipality itself caused the violation of the plaintiff’s rights. *See Connick v. Thompson*, 563 U.S. 51, 60 (2011) (“A municipality or other local government may be liable under . . . section [1983] if the governmental body itself ‘subjects’ a person to a deprivation of rights or ‘causes’ a person ‘to be subjected’ to such deprivation.” (quoting *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 692 (1978)); *Cash v. Cnty. of Erie*, 654 F.3d 324, 333 (2d Cir. 2011). In other words, to state a Section 1983 claim against a municipality, the plaintiff must allege facts showing (1) the existence of a municipal policy, custom, or practice, and (2) that the policy, custom, or practice caused the violation of the plaintiff’s constitutional rights. *See Jones v. Town of East Haven*, 691 F.3d 72, 80 (2d Cir. 2012); *Bd. of Cnty. Comm’rs v. Brown*, 520 U.S. 397, 403 (1997).

Plaintiff alleges no facts suggesting that the City of New York has a policy, practice, or custom that caused a violation of his constitutional rights. The Court therefore dismisses Plaintiff's claims against the City of New York for failure to state a claim on which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

The Court grants Plaintiff leave to replead his claims against the City of New York in an amended complaint that complies with the standard set forth above.

#### **D. Challenge to the lawfulness of his conviction**

Although the complaint contains few nonconclusory factual allegations, it appears that Plaintiff is seeking damages for his allegedly unlawful conviction. When a plaintiff seeks damages related to a conviction, “the district court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated.” *Heck v. Humphrey*, 512 U.S. 477, 487 (1994); *see Wilkinson v. Dotson*, 544 U.S. 74, 81-82 (2005) (“[A] state prisoner’s § 1983 action is barred (absent prior invalidation) – no matter the relief sought (damages or equitable relief), no matter the target of the prisoner’s suit (state conduct leading to conviction or internal prison proceedings) – if success in that action would necessarily demonstrate the invalidity of confinement or its duration.”).

Here, Plaintiff’s claims for damages on the grounds that he was unlawfully convicted based on false or fabricated evidence are necessarily inconsistent with his conviction, and he therefore cannot seek such relief unless his conviction is overturned or otherwise called into question. *See Heck*, 512 U.S. at 487. The Court therefore dismisses, under the doctrine set forth in *Heck*, Plaintiff’s Section 1983 claim seeking damages for the injury of his allegedly wrongful

convictions. Most of these claims require a reversal on appeal or some action establishing Plaintiff's innocence, to succeed,

#### **E. Claims regarding DOCCS facilities**

Plaintiff alleges facts about conditions at a DOCCS facility, but he does not name any defendants in connection with these allegations. To the extent that Plaintiff is seeking to bring claims arising from conditions at Marcy Correctional Facility, those claims arose in Oneida County, which is located in the Northern District of New York. *See* 28 U.S.C. § 112(a). If Plaintiff seeks to assert claims arising from conditions of confinement at a DOCCS facility located in this District, he may assert those claims and name an appropriate defendant in an amended complaint.<sup>3</sup>

#### **F. Claims under state law**

A district court may decline to exercise supplemental jurisdiction of state law claims when it "has dismissed all claims over which it has original jurisdiction." 28 U.S.C. § 1337(c)(3). Generally, "when the federal-law claims have dropped out of the lawsuit in its early stages and only state-law claims remain, the federal court should decline the exercise of jurisdiction." *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988) (footnote omitted). Having dismissed the federal claims of which the Court has original jurisdiction, the Court declines to exercise its supplemental jurisdiction of any state law claims Plaintiff may be asserting. *See Kolari v. New York-Presbyterian Hosp.*, 455 F.3d 118, 122 (2d Cir. 2006) ("Subsection (c) of § 1337 'confirms the discretionary nature of supplemental jurisdiction by enumerating the circumstances in which

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<sup>3</sup> This judicial district, the Southern District of New York, is comprised of the following New York State counties: (1) New York (New York City Borough of Manhattan); (2) Bronx (New York City Borough of the Bronx); (3) Westchester; (4) Dutchess; (5) Rockland; (6) Orange; (7) Putnam; and (8) Sullivan. *See* 28 U.S.C. § 112(b).

district courts can refuse its exercise.”” (quoting *City of Chicago v. Int'l Coll. of Surgeons*, 522 U.S. 156, 173 (1997))).

#### **G. Application for counsel**

Plaintiff filed an application for the court to request *pro bono* counsel. (ECF 4.) The factors to be considered in ruling on an indigent litigant’s request for counsel include the merits of the case, Plaintiff’s efforts to obtain a lawyer, and Plaintiff’s ability to gather the facts and present the case if unassisted by counsel. *See Cooper v. A. Sargent Co.*, 877 F.2d 170, 172 (2d Cir. 1989); *Hodge v. Police Officers*, 802 F.2d 58, 60-62 (2d Cir. 1986). Of these, the merits are “[t]he factor which command[s] the most attention.” *Cooper*, 877 F.2d at 172. Because the Court is dismissing this action with leave to replead, Plaintiff’s motion for counsel is denied without prejudice to renewal at a later date.

#### **LEAVE TO AMEND GRANTED**

Plaintiff proceeds in this matter without the benefit of an attorney. District courts generally should grant a self-represented plaintiff an opportunity to amend a complaint to cure its defects, unless amendment would be futile. *See Hill v. Curcione*, 657 F.3d 116, 123-24 (2d Cir. 2011); *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988). Indeed, the Second Circuit has cautioned that district courts “should not dismiss [a *pro se* complaint] without granting leave to amend at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated.” *Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir. 2000) (quoting *Gomez v. USAA Fed. Sav. Bank*, 171 F.3d 794, 795 (2d Cir. 1999)). Although it is unclear whether Plaintiff can state a Section 1983 claim against the Detective Brown or the City of New York that is not barred by *Heck*, in light of his *pro se* status, the Court grants Plaintiff 30 days’ leave to amend his complaint to cure the deficiencies set forth above.

If Plaintiff does not file an amended complaint within the time allowed, the Court will direct the Clerk of Court to enter judgment in this action.

### **CONCLUSION**

The Court dismisses the complaint for failure to state a claim on which relief may be granted, *see* 28 U.S.C. § 1915(e)(2)(B)(ii), with 30 days' leave to replead.

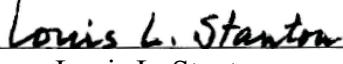
The Court declines to exercise supplemental jurisdiction of any state law claims Plaintiff may be asserting. *See* 28 U.S.C. § 1337(c)(3).

The Court denies Plaintiff's application for the court to request *pro bono* counsel without prejudice to renewal at a later time, should he submit an amended complaint. (ECF 4.)

The Court directs the Clerk of Court to hold this matter open on the docket until a civil judgment is entered.

SO ORDERED.

Dated: July 28, 2025  
New York, New York

  
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Louis L. Stanton  
U.S.D.J.